

NO. 45030-5

**COURT OF APPEALS, DIVISION II
OF THE STATE OF WASHINGTON**

In re the Detention of Jerrod D. Stoudmire,

STATE OF WASHINGTON,

Respondent,

v.

JERROD D. STOUDMIRE,

Appellant.

BRIEF OF RESPONDENT

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SUMMARY OF ARGUMENT

Following a trial, the jury returned a verdict that Stoudmire is a Sexually Violent Predator (SVP). Stoudmire now challenges the sufficiency of evidence, arguing that the State failed to prove beyond a reasonable doubt that he meets the SVP criteria.

I. ISSUE

- A. **Whether there is sufficient evidence to support the jury's verdict that Stoudmire is a Sexually Violent Predator.**

II. FACTS

When Stoudmire was 12 years old, he molested three young girls who lived in his neighborhood. 5/22/13 RP 61. The victims were two eight year olds and a 10 year old. *Id.* Stoudmire touched and fondled their chests and vaginal areas with his hand. *Id.* at 65. The 10 year old told her parents what was happening. *Id.* at 64. Her father confronted Stoudmire, told him the behavior was inappropriate and gave him a stern warning. *Id.* at 64-5.

By age 15, Stoudmire was molesting two other girls who lived in his neighborhood, C. R., age six and G. R., age nine. 5/22/13 RP 65-66. Stoudmire touched one girl on the vaginal area and forced the other child to touch his erect penis. *Id.* at 75-6. Stoudmire was charged with two counts of Indecent Liberties. Ex. 1. The case was tried in Juvenile Court

and the girls testified. 5/22/13 RP at 74. Stoudmire testified falsely under oath at the time, denying the allegations. *Id.*

The court found Stoudmire guilty as charged of two counts of Indecent Liberties and sentenced him to 26-32 weeks in the Juvenile Rehabilitation Administration, which he served at Maple Lane. Ex. 3; 5/22/13 RP 77. Stoudmire was released September 1, 1981. 5/22/13 RP 77.

By 1983, Stoudmire was 18 years old and molesting another 11-year-old girl, B. P. 5/22/13 RP 84. Stoudmire penetrated her vagina with his finger and penis; touched her breasts, put his mouth on her vagina, and put his penis into her mouth. *Id.* at 84-5. The sexual assaults against B. P. occurred hundreds of times over a period of years. *Id.* at 87.

During this same time period, from 1983 through 1987, Stoudmire was having sexual contact with other young girls, including C.___, age 13; V.___, age 11 or 12; E.B., age 11 or 12; and B.B., age 11 or 12. 5/22/13 RP 88-9. Stoudmire refers to these girls as “unadjudicated victims” because he was never charged for those crimes. *Id.* at 87-88. Stoudmire sexually assaulted these children by touching their chests and vaginal areas with his hand and having them touch his penis. *Id.* at 89.

In 1986, when he was 21 years old, Stoudmire began sexually assaulting C.M., another 11-year-old female. 5/22/13 RP 93. Stoudmire

groomed and manipulated the child (*Id.* at 97), then began touching her sexually. *Id.* at 98-99. By the time C.M. was 12 years old, Stoudmire was having vaginal intercourse with her, performing oral sex on her and having her perform oral sex on him. *Id.* at 96; 99. Stoudmire sexually assaulted C.M. hundreds of times over a period of years. *Id.* at 99.

In 1986 Stoudmire also began sexually assaulting E.D., another 11-year-old girl. 5/22/13 RP 104; 105-06. Stoudmire touched, massaged, and penetrated E.D.'s vaginal area with his hand. *Id.* at 108. He did this to E.D. twice, until she told him to stop. *Id.* at 107-08. E.D. stopped hanging out with Stoudmire and shortly thereafter, he learned she had reported his crimes to the police. *Id.* at 111-12. E.D. also reported Stoudmire's sexual contacts with other girls. *Id.* at 115.

During police questioning, Stoudmire denied sexual contact with E.D. or any other girls. 5/22/13 RP 113, 116. He also invented an alternative explanation for why E.D. might have reported that he had touched her. *Id.* at 115.

Stoudmire contacted B.P. and warned her she could not tell the police what he was doing or he would go to prison. 5/22/13 RP 116. He discussed the same with B.B. and said if the police contacted her, she was to deny Stoudmire had done anything to her. *Id.* at 117.

Based on E.D.'s report, Stoudmire was charged with Indecent Liberties. 5/22/13 RP 118; Ex. 5. He remained out of custody awaiting his trial, and he continued to sexually assault the other girls. 5/22/13 RP 119. At trial, E. D. described what Stoudmire had done to her. *Id.* at 120. Stoudmire testified and again lied under oath, denying what he had done. *Id.* at 120. Stoudmire also arranged for B.P. come to court and falsely testify that she had never seen Stoudmire touch E.D. sexually. *Id.* at 120-121. Stoudmire called another witness named Howard Wallace to testify that E.D. was promiscuous and a liar. *Id.* at 121.

Despite his own false testimony and his witnesses, Stoudmire was found guilty by the jury. Ex. 6; 5/22/13 RP 121. During the presentence investigation, he continued to deny that he had offended against E.D. 5/22/13 RP 121-22. He also denied he had ever committed the offenses against C.R. and G.R. that led to his juvenile conviction. *Id.* at 123. Stoudmire was sentenced to one year and a day in prison. *Id.*; Ex. 6. He appealed the conviction and remained out of custody pending the appeal. 5/22/13 RP 123. While out of custody, having been sentenced and during the pendency of his appeal, Stoudmire continued sexually assaulting B.P., C.M. and others. *Id.*

Stoudmire's conviction was affirmed and he began serving his sentence in December 1989. 5/23/13 RP 8-9. In April 1990, Stoudmire

was sent to a work release facility in Tacoma (*Id.* at 10), but this was short-lived; his work release was revoked and he was sent to prison after he stole a bag of money from his employer. *Id.* at 11-2.

Stoudmire was released from prison in October 1990 and began staying with the family of an 11-year-old girl named H.S. 5/23/13 RP 13. H.S.'s mother knew Stoudmire was a convicted sex offender who was just released from prison. *Id.* But, as with the parents of other girls, Stoudmire was able to convince her that the charges against him were false. *Id.*

Within a short time, at age 26, Stoudmire began sexually assaulting H.S., who was 11 years old at the time. 5/23/13 RP 14. He touched her breasts and vaginal area with his hand, penetrated her vagina with his penis, orally raped her and made her perform oral sex on him. *Id.* at 14-5. Stoudmire continued assaulting H.S. in 1991 and 1992. *Id.* at 15. In July 1992, H.S.'s mother confronted Stoudmire and said, "I know what you've been doing to my daughter." *Id.* at 16. Stoudmire was served with a restraining order alleging that he had raped and molested H.S. *Id.* at 16. He was expecting to be arrested and when police arrived he hid on the bedroom floor. *Id.* at 18. Police found and arrested him. *Id.* at 19.

On July 20, 1992, Stoudmire was charged in Pierce County Superior Court No. 92-1-02984-9 with one count of Rape of a Child in the Second Degree for the crimes involving H.S. Ex. 8. At his arraignment Stoudmire discovered he was also being charged with offenses against B.P. and C.M. in Pierce County Superior Court No. 92-1-02985-7. 5/23/13 RP 20. The second case included two counts of Indecent Liberties, Statutory Rape in the Second Degree, Rape of a Child in the Second Degree and Rape of a Child in the third Degree. Ex. 11.

Stoudmire pled guilty to a negotiated plea bargain (5/23/13 RP 21), but he was later permitted to withdraw his plea. *Id.* at 22. In September 1993, Stoudmire again pled guilty, this time to seven counts in both cause numbers. Exs. 9, 14. He was sentenced with all counts to run concurrent. Exs. 10, 15. The total term of confinement was 198 months. 5/22/13 RP 51. Based on a pro se Personal Restraint Petition, two counts of Indecent Liberties were later vacated, but Stoudmire's term of confinement was not affected. *Id.* at 48-9, 51; Ex. 16.

In 1999, while serving his prison sentence, Stoudmire learned that the State was considering filing an SVP petition against him. 5/22/13 RP 53. In February 2005, when he was nearing his release date, Stoudmire met with Janet Busby, a corrections employee. 6/4/13 RP 79. Ms. Busby interviewed Stoudmire about his release, financial plans and

marital/family status. *Id.* at 80, 82. Stoudmire said “he was afraid of being looked at for civil commitment,” and he asked several questions about the process. *Id.* at 83. He decided he wanted to start sex offender treatment. *Id.* at 82. In 2006, Stoudmire married a prison pen pal. 5/30/13 RP 99, 116. His wife then worked to establish an address for his release that was approved by Department of corrections. *Id.* at 132-34.

Prior to his release from prison, Stoudmire’s mental condition was evaluated by Harry Hoberman, Ph.D. 5/28/13 RP 63. Dr. Hoberman is a highly qualified forensic psychologist with significant experience in evaluating sex offenders. *Id.* at 40, 44, 51-54. The evaluation included a review of relevant records and two days of testing and interviewing Stoudmire. *Id.* at 64-66, 68-70.¹

Dr. Hoberman diagnosed Stoudmire with paraphilias, specifically pedophilia and hebephilia. 5/28/13 RP 92-93. He also diagnosed at least two personality disorders: Antisocial personality disorder and narcissistic personality disorder. *Id.* at 124, 126-27. Dr. Hoberman scored Stoudmire on the Psychopathy Checklist Revised (PCL-R) and concluded from Stoudmire’s high score that he had psychopathy. *Id.* at 141-2. Psychopathy is similar to a personality disorder; those who have it have a

¹ Prior to trial, Dr. Hoberman met with Stoudmire to update the evaluation. Accordingly, Dr. Hoberman met with Stoudmire for several more days in February of 2011 and again in April 2011. *Id.* at 72-73.

particular set of interpersonal and emotional deficits, as well as socially deviant behavior. *Id.* 137.

Dr. Hoberman determined that Stoudmire's pedophilia constitutes a mental abnormality. 5/28/13 RP 142. He testified that Stoudmire's paraphilias are congenital or acquired conditions that affect Stoudmire's emotional and volitional capacity. *Id.* Dr. Hoberman opined that Stoudmire's sexual acts in the community, beginning when he was young, and occurring with great frequency over a long period of time, indicate Stoudmire's strong predisposition to commit such acts. *Id.* 145-46. Dr. Hoberman also noted that Stoudmire continued to commit offenses despite significant sanctions. *Id.* at 144.

Dr. Hoberman also testified that Stoudmire's personality disorders constitute a mental abnormality. 5/29/13 RP 45-46. They are acquired or congenital conditions that affect Stoudmire's volitional and emotional capacity and predispose him to commit criminal sexual acts. *Id.* Dr. Hoberman testified that by definition, antisocial personality disorder affects emotional and volitional capacity, including indifference to others, impulsiveness and irresponsibility. 5/29/13 at 45-5.

Dr. Hoberman assessed whether Stoudmire is likely to reoffend if released. 5/28/13 RP 147. He considered a variety of information, such as data from actuarial instruments, dynamic risk factors and the base rates

of offending in populations of offenders. *Id.* at 148-49. He used several actuarial instruments because each was a different way of measuring sexual offending in the future. 5/29/13 RP 4. Dr. Hoberman found that the actuarial results converged, indicating that Stoudmire would more probably than not commit a future sex offense. *Id.* at 6. He used an instrument called the Sexual Violence Risk-20, or SVR-20, to measure dynamic risk factors, and found that 15 of the 20 applied to Stoudmire. *Id.* at 23-24. Dr. Hoberman used the Psychopathy Checklist – Revised, or PCL-R, to measure Stoudmire’s level of psychopathic characteristics. 5/28/13 RP 138-39. He ultimately assigned Stoudmire a score of 33, a high score. *Id.* at 140-42. A higher score means a higher risk of reoffending. *Id.* at 137-38. Based on his review of the available information, Dr. Hoberman opined that Stoudmire was likely to commit an offense if released. 5/29/13 RP 48. He opined that the offense was likely to be a predatory offense. 5/28/13 RP 147.

Dr. Hoberman considered Stoudmire’s participation in sex offender treatment and found that Stoudmire had not completed it. 5/29/13 RP 45. He opined that two years of supervision after release, and treatment in the community, would not be sufficient to decrease Stoudmire’s risk of reoffending. *Id.* at 39-40. Dr. Hoberman considered two years of supervision inadequate to prevent Stoudmire from seeking

out contact with minors; nor did he think unspecified treatment would decrease Stoudmire's risk over time. *Id.*

Similarly, Dr. Hoberman testified that he did not believe Stoudmire's marital status would serve to reduce his risk for re-offense. 5/29/13 RP 40. Dr. Hoberman testified he is skeptical of prison marriages, and Stoudmire had two periods of time where people knew he had committed sexual offenses and did not or were not able to prevent him from committing more offenses. *Id.* at 41. Dr. Hoberman did not believe that Stoudmire's friends in the community would necessarily reduce his recidivism risk. *Id.* at 42. Dr. Hoberman noted that Stoudmire had historically been able to deceive people and convince them the accusations against him were false. *Id.*

Finally, Dr. Hoberman considered Stoudmire's physical health, weight and disability and determined it would not impact his ability to reoffend. 5/29/13 RP 43. Stoudmire's reported current weight of 486 pounds (5/23/2013 RP 4) was not significantly different from his weight of approximately 500 pounds during the earlier periods when he was offending. 5/29/13 RP 43.²

² Stoudmire testified that he weighed as much as 880 pounds when he was out of custody on an appeal bond and during the time frame he was assaulting B.P., C.M. and others. 5/22/13 RP 123; 5/23/2013 RP 3-4.

Dr. Hoberman opined that, to a reasonable degree of psychological certainty, Stoudmire had one or more mental abnormalities and personality disorders that make him likely to commit predatory acts of sexual violence if not confined to a secure facility. 5/29/13 RP 48.

III. ARGUMENT

Stoudmire argues that the State failed to prove beyond a reasonable doubt that he is an SVP. Specifically, he argues that insufficient evidence linked his mental abnormality or personality disorder with his serious difficulty controlling his behavior. His argument is without merit. The evidence presented was not only sufficient, but overwhelming. This court should affirm his commitment.

A. Standard of Review

The criminal standard of review applies to sufficiency of the evidence challenges under the SVP statute. *In re the Detention of Thorell*, 149 Wn.2d 724, 744, 72 P. 3d 708 (2003). “Under this approach, the evidence is sufficient if, when viewed in the light most favorable to the State, a rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.” *Id.*

Additionally, all reasonable inferences from the evidence must be drawn in favor of the State and interpreted most strongly against Stoudmire. *In Re Detention of Audett*, 158 Wn.2d 712, 727, 147 P. 3d 982

(2006). An appellate court does not second-guess the credibility determinations of the fact-finder. *In re the Detention of Halgren*, 156 Wn.2d 795, 811, 132 P.3d 714 (2006); *In re the Detention of Davis*, 152 Wn.2d 647, 680, 101 P.3d (2004) (“A trial court’s credibility determinations cannot be reviewed on appeal, even to the extent there may be other reasonable interpretations of the evidence.”). The reviewing court defers to the trier of fact regarding conflicting testimony and the persuasiveness of the evidence. *In re the Detention of Broten*, 130 Wn. App. 326, 335, 122 P.3d 942 (2005).

B. Sexually Violent Predator

In order to affirm Stoudmire’s civil commitment, this court must determine whether a rational trier of fact could have found the essential elements beyond a reasonable doubt. The court instructed the jury that in order to commit Stoudmire, they must find three elements beyond a reasonable doubt:

- (1) That Jerrod Duane Stoudmire has been convicted of a crime of sexual violence . . . ;
- (2) That Jerrod Duane Stoudmire suffers from a mental abnormality or personality disorder which causes serious difficulty in controlling his sexually violent behavior; and
- (3) That this mental abnormality or personality disorder makes Jerrod Duane Stoudmire likely to engage in predatory acts of sexual violence if not confined to a secure facility.

CP 656.³

1. Sexually Violent Offense

“Sexually violent offense” is defined in the statute and includes, among other offenses: Rape of a child in the first or second degree, statutory rape in the first or second degree, indecent liberties against a child under age fourteen, child molestation in the first or second degree. RCW 71.09.020 (17). The evidence was overwhelming and undisputed that Stoudmire has multiple prior convictions for sexually violent offenses.

On February 27, 1981, Stoudmire was convicted in Pierce County Juvenile Court Cause Number 24878 for two counts of indecent liberties against a child under age 14. Ex. 3. On January 27, 1988, Stoudmire was convicted in Pierce County Superior Court No. 87-1-01303-2 for indecent liberties against a child under age 14. Ex. 6. On September 20, 1993, Stoudmire was convicted in Pierce County Superior Court No. 92-1-02984-9 for rape of a child in the second degree. Ex. 9. On September 20, 1993, Stoudmire was convicted in Pierce County Superior Court No. 92-1-02985-7 for statutory rape in the second degree, rape of a child in the second degree, rape of a child in the third degree.⁴ Ex. 14.

³ Stoudmire has not assigned error to the instructions.

⁴ Stoudmire was also convicted of two counts of Indecent Liberties against a Child under Age 14. Those counts were later vacated by the Washington Supreme Court on Stoudmire’s pro se Personal Restraint Petition. See Exs. 14-17.

In addition to the certified copies of Stoudmire's convictions introduced by the State, Stoudmire admitted he had been convicted of these crimes. 5/22/2013 RP 74, 120-1; 5/23/2013 RP 22.⁵

Viewed in the light most favorable to the State, a rational jury could find beyond a reasonable doubt that Stoudmire had previously been convicted of a sexually violent offense.

2. Mental abnormality or personality disorder.

Next, this Court must determine whether a rational jury could have found beyond a reasonable doubt that Stoudmire suffers from a mental abnormality or personality disorder that cause him serious difficulty controlling his sexually violent behavior. Both terms are defined in the statute.⁶

⁵ Stoudmire's counsel conceded in closing argument that he had been convicted of at least one sexually violence offense. (6/5/2013 RP 75).

⁶ "Mental abnormality" means a congenital or acquired condition affecting the emotional or volitional capacity which predisposes the person to the commission of criminal sexual acts in a degree constituting such person a menace to the health and safety of others.

RCW 71.09.020 (8).

"Personality disorder" means an enduring pattern of inner experience and behavior that deviates markedly from the expectations of the individual's culture, is pervasive and inflexible, has onset in adolescence or early adulthood, is stable over time and leads to distress or impairment. Purported evidence of a personality disorder must be supported by testimony of a licensed forensic psychologist or psychiatrist.

RCW 71.09.020 (9).

The State presented ample evidence that Stoudmire suffers from one or more mental abnormalities and one or more personality disorders. Harry Hoberman, Ph.D., is a forensic psychologist licensed to practice in Washington. 5/28/13 RP 40, 45. He testified that Stoudmire suffered from two paraphilias, pedophilia and hebephilia. 5/28/13 RP 92-93. A paraphilia is a sexual disorder. *Id.* at 91. Dr. Hoberman noted that Stoudmire had recurrent, intense sexually arousing fantasies, urges or behaviors involving children that occurred over an extended period of time. *Id.* at 92. Stoudmire's fantasies, urges and behaviors have caused him significant impairment because he was incarcerated on three different occasions for having sexual behavior with children. *Id.* at 92-3. Dr. Hoberman described that Stoudmire sexually assaulted several children who were prepubertal, accounting for his pedophilia diagnosis. *Id.* at 107. Dr. Hoberman testified that Stoudmire continued sexually assaulting some of the children as they became older and became peripubertal and post pubertal, accounting for his hebephilia diagnosis. *Id.* Dr. Hoberman described paraphilias as typically being chronic and lifelong conditions. *Id.* at 110.

Dr. Hoberman also testified that Stoudmire met the diagnostic criteria for at least two personality disorders: Antisocial Personality Disorder and Narcissistic Personality Disorder. 5/28/13 RP 124, 126-27.

He opined that Stoudmire's antisocial personality was demonstrated by his long history of arrests and convictions for stealing, assault and sexual offenses; his long list of prison infractions; his many instances of deceitfulness and conning; and his history of impulsivity, aggression, irritability, anger and lack of remorse. *Id.* at 127-31. He opined that Stoudmire's narcissistic personality was evident from instances of grandiosity and self-importance in his thinking; his sense of entitlement; his self-centeredness; his having been exploitative and conning; having shown arrogant behaviors; and having shown a lack of empathy. *Id.* at 132-134.

Further, Dr. Hoberman found that Stoudmire had a very high level of psychopathy. 5/28/13 RP 141-42. Psychopathy is similar to a personality disorder and refers to people who have a particular set of interpersonal and emotional deficits as well as socially deviant behavior. *Id.* 137. The high psychopathy score, coupled with his antisocial personality disorder would carry a more identifiable risk of future problematic behavior. *Id.* at 141.

Dr. Hoberman testified that Stoudmire's paraphilias and his personality disorders constitute mental abnormalities. 5/28/13 RP 142; 5/29/13 RP 46. He described Stoudmire's paraphilias as congenital or acquired conditions that affect his emotional and volitional capacity.

5/28/13 RP 142. Dr. Hoberman testified that “by definition, antisocial personality disorder affects emotional capacity” and volitional capacity. *Id.* The diagnostic criteria include indifference to others, impulsiveness and irresponsibility that affect volitional capacity. *Id.*

Dr. Hoberman noted that Stoudmire’s great frequency of criminal sexual acts over a long period in the community, beginning when he was young, shows that Stoudmire has a strong predisposition to commit such acts and is evidence that his paraphilias affect his emotional and/or volitional capacity. *Id.* 145-46. Stoudmire himself admitted that he was sexually assaulting children almost continuously when he was not in custody, starting when he was very young and continuing for years against G.R., C.R., B.P., C., E.D., E.B., V.___, C.___, and B.B. *Id.* at 75-76, 84, 88, 99, 104. Dr. Hoberman also noted that Stoudmire continued to commit offenses despite significant sanctions, which was further evidence that his disorders affect his emotional and/or volitional capacity. *Id.* at 144. For example, Stoudmire reported that he sexually assaulted children after a stern talking to (*Id.* at 64-5); after serving a juvenile sentence (*Id.* at 77); after serving a prison sentence (*Id.* at 123); and while under a new sentence and temporarily out-of-custody on appeal bond (5/23/13 at 13).

Given the significant evidence that Stoudmire has one or more mental abnormalities and personality disorders, a rational jury could have

found this element proved beyond a reasonable doubt. Likewise, significant evidence established that Stoudmire has serious difficulty controlling his sexually violent behavior. Certainly, when viewed in the light most favorable to the State, sufficient evidence supports the jury's finding that Stoudmire has a mental abnormality or personality disorder that causes him serious difficulty controlling his sexually violent behavior.

3. Likely to engage in predatory acts of sexual violence if not confined to a secure facility

Finally, in order to uphold Stoudmire's commitment, this court must determine whether a rational jury could have found beyond a reasonable doubt that Stoudmire is more likely than not to engage in predatory acts of sexual violence if not confined to a secure facility. There is ample evidence supporting this finding.

Dr. Hoberman testified that he evaluated Stoudmire's risk for committing future predatory acts of sexual violence if not confined. 5/29/2013 RP 147. Dr. Hoberman assessed whether Stoudmire is likely to reoffend if released. 5/28/13 RP 147. He considered a variety of information, such as data from actuarial instruments, dynamic risk factors and the base rates of offending in populations of offenders. *Id.* at 148-49. He used several actuarial instruments because each was a different way of measuring sexual offending in the future. 5/29/13 RP 4. Dr. Hoberman

found that the actuarial results converged, indicating that Stoudmire would more probably than not commit a future sex offense. *Id.* at 6. He used an instrument called the Sexual Violence Risk-20, or SVR-20, to measure dynamic risk factors, and found that 15 of the 20 applied to Stoudmire. *Id.* at 23-24. Dr. Hoberman used the Psychopathy Checklist – Revised, or PCL-R, to measure Stoudmire’s level of psychopathic characteristics. 5/28/13 RP 138-39. He ultimately assigned Stoudmire a score of 33, a high score. *Id.* at 140-42. A higher score means a higher risk of reoffending. *Id.* at 137-38. Based on his review of the available information, Dr. Hoberman opined that Stoudmire was likely to commit an offense if released. 5/29/13 RP 48. He opined that the offense was likely to be a predatory offense. 5/28/13 RP 147.

Dr. Hoberman considered Stoudmire’s participation in sex offender treatment and found that Stoudmire had not completed treatment and that he “talks a good game but does not produce.” 5/29/13 RP 44-45. Dr. Hoberman opined that the two years of supervision and treatment Stoudmire would have available after his release would not decrease his risk of reoffending. *Id.* at 39-40.

Similarly, Dr. Hoberman testified he did not believe Stoudmire’s marital status would reduce his risk for re-offense. *Id.* at 40. Dr. Hoberman is skeptical of prison marriages and Stoudmire had two

periods of time where people knew he had committed sexual offenses and did not or were not able to prevent him from committing more offenses. *Id.* at 41.

Dr. Hoberman testified that Stoudmire's friends in the community would not necessarily reduce his recidivism risk. *Id.* at 42. Dr. Hoberman noted that Stoudmire had historically been able to deceive people, even to convince them the accusations against him were not true. *Id.* By Stoudmire's own admission, he was able to convince the parents of these children that he had not committed these crimes. 5/23/13 RP 13.

Finally, Dr. Hoberman considered Stoudmire's physical health, weight and disability and determined it would not impact his ability to reoffend. *Id.* at 43. Stoudmire's reported current weight of 486 pounds 5/23/2013 RP 4 was not significantly different from his weight of approximately 500 pounds during the earlier periods when he was offending. 5/29/13 RP 43.⁷

Based on his review of all the available information, Dr. Hoberman opined that, to a reasonable degree of psychological certainty, Stoudmire has a mental abnormality and a personality disorder that make him likely

⁷ Stoudmire testified that he weighed as much as 880 pounds when he was out of custody on an appeal bond and during the time frame he was assaulting B.P., C.M. and others.(5/22/13 RP 123); (5/23/2013 RP 3-4).

to commit predatory acts of sexual violence if he is not confined to a secure facility. 5/29/13 RP 48.

When viewed in the light most favorable to the State, a rational jury could find beyond a reasonable doubt that Stoudmire is more likely than not to commit a future act of sexual violence if not confined to a secure facility.

IV. CONCLUSION

The evidence in this case is not only legally sufficient, but overwhelming. Any rational jury would have found that this evidence proved Stoudmire to be an SVP beyond a reasonable doubt, whether or not it is viewed in a light most favorable to the State. Stoudmire's civil commitment should be affirmed.

RESPECTFULLY SUBMITTED this 28th day of February, 2014.

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NO. 45030-5-II

WASHINGTON STATE COURT OF APPEALS, DIVISION II

In re the Detention of:

JERROD D. STOUDMIRE,

Appellant.

DECLARATION OF
SERVICE

I, Elizabeth Jackson, declare as follows:

On February 28, 2014, I sent via electronic mail, true and correct copies of Brief of Respondent, and Declaration of Service, postage affixed, addressed as follows:

Marie Trombley
marietrombley@comcast.net

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED this ____ day of February, 2014, at Seattle, Washington.

ELIZABETH JACKSON

NO. 45030-5-II

WASHINGTON STATE COURT OF APPEALS, DIVISION II

In re the Detention of:

JERROD D. STOUDMIRE,

Appellant.

DECLARATION OF
SERVICE

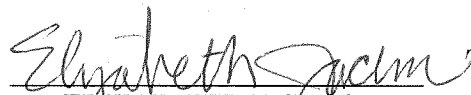
I, Elizabeth Jackson, declare as follows:

On February 28, 2014, I sent via electronic mail, true and correct copies of Brief of Respondent, and Declaration of Service, postage affixed, addressed as follows:

Marie Trombley
marietrombley@comcast.net

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED this 28th day of February, 2014, at Seattle, Washington.


ELIZABETH JACKSON

WASHINGTON STATE ATTORNEY GENERAL

February 28, 2014 - 3:59 PM

Transmittal Letter

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Case Name: In re Stoudmire

Court of Appeals Case Number: 45030-5

Is this a Personal Restraint Petition? Yes ☐ No ☒

The document being Filed is:

Designation of Clerk's Papers

Supplemental Designation of Clerk's Papers

Statement of Arrangements

Motion: ____

Answer/Reply to Motion: ____

☒ Brief: Respondent's

Statement of Additional Authorities

Cost Bill

Objection to Cost Bill

Affidavit

Letter

Copy of Verbatim Report of Proceedings - No. of Volumes: ____

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Personal Restraint Petition (PRP)

Response to Personal Restraint Petition

Reply to Response to Personal Restraint Petition

Petition for Review (PRV)

Other: ____

Comments:

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Sender Name: Liz Jackson - Email: **elizabethj@atg.wa.gov**

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